

BEFORE THE IDAHO BOARD OF TAX APPEALS

ENLOW TRUST,	)	
	)	
Appellant,	)	APPEAL NO. 15-A-1019
	)	
v.	)	FINAL DECISION
	)	AND ORDER
BONNER COUNTY,	)	
	)	
Respondent.	)	
	)	
	)	
	)	

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**RESIDENTIAL PROPERTY APPEAL**

This appeal is taken from a decision of the Bonner County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. RP59N04W056040A. The appeal concerns the 2015 tax year.

This matter came on for telephonic hearing November 10, 2015 in Boise, Idaho before Board Member David Kinghorn. Fred Enlow represented Appellant. Jerry Clemons represented Respondent.

Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision.

**The issue on appeal concerns the market value of an improved residential property.**

**The decision of the Bonner County Board of Equalization is modified.**

FINDINGS OF FACT

The assessed land value is \$372,725, and the combined value of the improvements is \$202,200, totaling \$574,925. Appellant agrees with the value of the improvements, however, contends the correct land value does not exceed \$225,000.

The subject property is a .48 acre parcel located in Priest River. Subject enjoys 75 front feet on the southern outlet of Priest Lake. The lot was described as steep and difficult, with no beachfront. The parcel is improved with two (2) residences and a dock.

Appellant explained sixty (60) lakefront lots owned by the State of Idaho were sold at auction in August 2014. The lots had been leased to various persons who were permitted by the State to construct various improvements thereon. Prior to the auction, at least one (1) independent appraisal was commissioned for each of the auction lots. All except one (1) of the lots were sold at the auction, with nearly all being purchased by the lessees. Most of the purchase prices mirrored the individual appraised values. Appellant noted the Bonner County Board of Equalization (BOE) reduced the assessed values of the auction lots to their respective auction prices, however, did not similarly reduce values of the non-auction lots. Appellant contended this disparate assessment treatment resulted in dis-uniform taxation of Priest Lake parcels in violation of Article VII, Section 5 of the Idaho Constitution. Appellant argued subject should be assessed using the same guidelines as employed in assessing the auction lots.

Respondent stated the auction sales were excluded from its land value study for 2015 because in Respondent's view, the auction sales did not conform to the definition of market value. Specifically, Respondent characterized the motivation of the parties as atypical; particularly the buyers who were specially motivated to purchase the land upon which their cabins were situated. Respondent also contested some of the sales used in the fee appraisals because some were older and others involved parcels located on different lakes.

Instead of the auction sales, Respondent's analysis focused on nine (9) deeded lakefront sales from late 2013 through 2014. Eight (8) of the sales were located on the more developed west side of Priest Lake, including one (1) located near subject on the southwestern outlet of the lake. Seven (7) of the sales were improved parcels. To isolate land values, Respondent removed the assessed values of the associated improvements, resulting in land

price residuals ranging from \$5,103 to \$6,965 per front foot. The two (2) vacant lots sold for \$4,891 and \$5,200 per front foot. With the exception of one (1), Respondent's sales were noted to involve mostly level parcels with sandy beachfronts. Because one (1) of the sales concerned a relatively steep parcel which sold near the top of the per-front-foot price range, Respondent concluded there was no price differentiation for Priest Lake lots based on topography or type of beachfront. Accordingly, Respondent resolved to assess each waterfront parcel on the lake at the same uniform base rate.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value, or as applicable exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho Code § 63-205 requires taxable property be assessed at market value annually on January 1; January 1, 2015 in this case. Market value is defined in Idaho Code § 63-201, as,

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

The three (3) primary methods of determining market value included the income approach, the cost approach, and the sales comparison approach. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). Residential property is commonly valued using the sales comparison approach.

The central issue in this appeal concerns whether constitutional principles of uniform

taxation were violated in assessing subject. “All taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal . . . .” ID. CONST. art. 7, § 5 (1890). The BOE’s decision to assess the auction lots at their respective purchase prices and not similarly assess the non-auction lots created two (2) separate groups of lakefront property on Priest Lake. The result is disuniform tax treatment between the two (2) groups, which runs afoul of the constitutional mandate that taxes be uniform upon the same class of properties.

Respondent argued the auction sales were not valid arm’s-length transactions and therefore should not be used to determine lakefront values. While the Board appreciates Respondent’s concerns regarding the auction sales, it is of minimal importance in this instance where the auction properties were assessed notably lower than the non-auction group. “The requirement that all property be assessed at its actual cash value is secondary to the constitutional mandate of equality of taxation. *Where certain property is assessed at a higher valuation than all other property, the court will enforce the requirement of uniformity by a reduction of the taxes on the property assessed at the higher valuation*, if it be shown that the difference is the result not of mere error in judgment, but of fraud or of intentional and systematic discrimination.” *Washington County v. First Nat’l Bank*, 35 Idaho 438, 444, 206 P. 1054, 1056 (1922) (emphasis added). As the Court makes clear, the available remedy is to reduce subject’s value to align with the values of the auction lots.

Idaho Code § 63-511 places the burden on Appellant to prove error in subject’s assessment by a preponderance of the evidence. The burden of proof was found to be satisfied

in this case. As a result, the decision of the Bonner County Board of Equalization is modified to reflect a reduction in subject's land value to \$230,000, which includes the value attributable to the onsite improvements.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED to reflect a decrease in subject's land value to \$230,000, with no changes to the values of the improvements, resulting in a total value of \$432,200.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 63-1305, any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

Idaho Code § 63-3813 provides that under certain circumstances the above ordered value for the current tax year shall not be increased in the subsequent assessment year.

DATED this 26<sup>th</sup> day of January, 2016.